

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA, )  
v. )  
Plaintiff, ) ) No. 3:08-CR-153  
JAMES A. JONES, ) ) (PHILLIPS/SHIRLEY)  
Defendant. )

## **MEMORANDUM AND ORDER**

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This matter is before the Court on the defendant's Motion for Continuance. [Doc. 22] The defendant moves the Court to continue the trial in this matter, currently scheduled for June 16, 2009, to September 22, 2009. The defendant states that continuance is needed so as to allow the Court to address the defendant's pending Motion to Suppress [Doc. 14] and to allow the parties to prepare for trial after the motion's resolution. The defendant states that the government does not oppose the motion. The defendant further states that defense counsel has advised him of his rights under the Speedy Trial Act and that he understands that the period of time between the filing of the instant motion and the September 22, 2009, trial date is fully excludable.

For good cause shown, the Court finds that the ends of justice served by a continuance outweigh the interest of the defendant and the public in a speedy trial. See 18 U.S.C. § 3161(h)(8)(A). Specifically, the Court finds that failure to grant a continuance under these circumstances would deny the defendants the reasonable time necessary for effective preparation

for trial, resulting in a miscarriage of justice. See 18 U.S.C. § 3161(h)(8)(B)(i),(iv). The Court finds that additional time is needed to allow the Court to issue a Report and Recommendation on the pending motion to suppress, for the District Court to rule on any objections to that Report and Recommendation, and for the parties to then prepare for trial in light of the motion's resolution. The Court finds that this could not take place before the June 16, 2009, trial date, or in less than approximately three months.

Accordingly, the defendants' Motion for Continuance [**Doc. 22**] is hereby **GRANTED**, and the trial in this matter is hereby **CONTINUED** to September 22, 2009. The Court further finds, and the parties agree, that all time between the May 7, 2009, filing of the instant motion and the new trial date of September 22, 2009, is fully excludable time under the Speedy Trial Act. See 18 U.S.C. § 3161(h)(1)(F), (J), -(8)(A)-(B)(i),(iv).

In summary, it is **ORDERED** that:

- (1) The defendant's Motion For Continuance [**Doc. 22**] is **GRANTED**;
- (2) The trial of this matter is reset to commence on September 22, 2009, at 9:00 a.m., before the Honorable Thomas W. Phillips, United States District Judge;
- (3) All time between the May 7, 2009, filing of the instant motion and the new trial date of September 22, 2009, is fully excludable time under the Speedy Trial Act for the reasons set forth above.

**IT IS SO ORDERED.**

ENTER:

s/ C. Clifford Shirley, Jr.  
United States Magistrate Judge